

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
MARITIME COMMUNICATIONS/LAND	)	EB Docket No. 11-71
MOBILE, LLC	)	File No. EB-09-IH-1751
	)	FRN: 0013587779
Participant in Auction No. 61 and Licensee of Various)	
Authorizations in the Wireless Radio Services)	
Applicant for Modification of Various Authorizations)	
in the Wireless Radio Services;)	
)	
Applicant with ENCANA OIL AND GAS (USA), INC.;	)	Application File Nos.
DUQUESNE LIGHT COMPANY; DCP	)	0004030479, 0004144435,
MIDSTREAM, LP; JACKSON COUNTY RURAL	)	0004193028, 0004193328,
MEMBERSHIP ELECTRIC COOPERATIVE; PUGET	)	0004354053, 0004309872,
SOUND ENERGY, INC.; ENBRIDGE ENERGY	)	0004310060, 0004314903,
COMPANY, INC.; INTERSTATE POWER AND	)	0004315013, 0004430505,
LIGHT COMPANY; WISCONSIN POWER AND	)	0004417199, 0004419431,
LIGHT COMPANY; DIXIE ELECTRIC	)	0004422320, 0004422329,
MEMBERSHIP CORPORATION, INC.; ATLAS	)	0004507921, 0004153701,
PIPELINE—MID CONTINENT, LLC; DENTON	)	0004526264, 0004636537,
COUNTY ELECTRIC COOPERATIVE, INC., DBA	)	and 0004604962
COSERV ELECTRIC; AND SOUTHERN)	
CALIFORNIA REGIONAL RAIL AUTHORITY)	
)	
For Commission Consent to the Assignment of Various)	
Authorizations in the Wireless Radio Services)	

FILED/ACCEPTED

AUG - 9 2012

Federal Communications Commission
Office of the Secretary

To: Marlene H. Dortch, Secretary
Attn: The Honorable Richard L. Sippel, Chief Administrative Law Judge

SUPPLEMENTAL RESPONSES PER ORDER FCC 12M-38

This filing is being made on behalf of Maritime Communications/Land Mobile, LLC (Maritime) in compliance with numbered item 2 in the Presiding Judge's Order (FCC 12M-38; rel. August 2, 2012).

Reference is made to the attachment to the Order, a document prepared by the Enforcement Bureau and styled "Maritime's Interrogatory Deficiencies on Operating Status as of 8/1/2012 – Discovery the Enforcement Bureau Still needs on Issue G."

ORIGINAL

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Maritime raises two preliminary points: First, Maritime does not accept the Bureau's characterization or title for its request; to the contrary, Maritime has provided extensive information on these stations and their operational status in its previous responses to discovery requests and in other filings. Second, it is Maritime's understanding, based on the discussion at the August 1, 2012, prehearing conference, that the attachment sets forth the remaining alleged deficiencies in connection with the Bureau's pending motion to compel.

Maritime offers the following supplemental responses based on the Bureau's document as attached to the Order.

CATEGORY A

The Bureau lists as "Category A" what it says are "Stations For Which Maritime Has Not Provided Any Operational Information." The Bureau's specific requests are set forth below in italics, following by Maritime's numbered further supplemental and/or clarifying responses.

A.1. As to each Call Sign and Location [listed under Category A in the Bureau's table], is it currently operating and offering any type of service?

1. Call Sign KAE889 Locations 3 and 13, are now, and have been since 2008, under lease to the Evergreen School District. Call Sign KAE889, Locations 4, 20, 30, 34 and 48, are now and have been since March 2010, under lease to Puget Sound Energy, Inc. Call Sign WHG750 is now, and has been since February 2010, under lease to Duquesne Light Company. Call Sign WRV374 Locations 15 and 25, are now and have been since 2005, under lease to Pinnacle Wireless, Inc. Call Sign WRV374 Locations 12 & 39 are now and have been since 2003 subject to a spectrum lease with Central Communications Network ("CCN") which later defaulted on its obligations to Maritime. This is discussed further in paragraphs 5 and 6, below. These lessees may over the term of the lease construct and operate "fill-in" stations within the contour footprint of Maritime's authorized incumbent stations. Maritime may not operate from

its licensed location lest it interfere with operations of the lessee. Nevertheless, Maritime reserves the right to resume operations from the authorized locations at such time as the spectrum leases expire or are otherwise terminated.

2. Call Sign WRV374 Location 31 (Baltimore, MD), is subsumed within Call Sign WQGF315, Maritime's geographic (auctioned) AMTS license for the Mid-Atlantic region (Market No. AMT002), and will be voluntarily deleted from the authorization. This facility was inadvertently omitted from the joint stipulations.

3. No service is currently being provided to AMTS users via any of the other facilities on the Bureau's Category A list. Further information regarding the operational status of these facilities is explained below.

4. As reported in prior interrogatory responses, Call Signs WHG703, WHG709, WHG712, WHG714, WHG715, WHG719, WHG720, WHG721, WHG723, WHG725, WHG726, WHG733, WHG734, WHG735, WHG737, WHG741, WHG743, WHG746, WHG751, WHG752 and WRV374 Locations 14, 18, 26 33, 35 & 40 are "operational," meaning that equipment is at the location and the facility is capable of providing AMTS service, even though Maritime currently has no active AMTS customers. Maritime previously reported that it did not know the operational status of Call Signs WHV733 Locations 2, 3 & 5 and WRV374 Location 20. Maritime has since verified that its equipment remains at these locations, and Maritime now also categorizes these facilities as "operational." Maritime does not now and never has intended to permanently cease operations of or otherwise abandon these stations.¹

¹ This information is intended as a factual report and is not a concession of any legal point. It is Maritime's position that these stations are deemed to be "in service" for purposes of Section 1.955(a)(3) of the FCC Rules, notwithstanding the lack of current AMTS subscribers, and/or that any discontinuance of service is temporary, not permanent for purposes of Section 1.955(a)(3).

5. As reported in prior interrogatory responses, Maritime does not know the current operational status of Call Signs KAE889 Locations 6 & 12, WHG702, WHV733 Location 1, WHV843 Location 6, and WRV374 Locations 8, 16, 23 & 34. Maritime previously reported that it did not know the operational status of Call Signs KAE889 Locations 22 & 46, WHG708, WHG710, WHV740, WHV843, and WRV374 Locations 19 & 22. Maritime has since determined that it no longer has operational equipment at these locations, and Maritime now categorizes these facilities as “non-operational.” Regarding Call Sign WRV374 Locations 12 & 39 that are subject to a spectrum lease with CCN, Maritime does not know the current status of the licensed facilities or the fill-in stations constructed by CCN pursuant to the lease. (See paragraph 6, below, for additional information.) As to both the “unknown” and “non-operational” facilities, Maritime does not now and never has intended to permanently cease operations of or otherwise abandon these stations²

A.2. As to any Call Sign and Location [listed under Category A in the Bureau’s table] ,... is it currently operating, the date operations ceased and the reason why[?]

6. As stated in prior interrogatory responses, Call Sign WRV374 Locations 12 and 39 are subject to a spectrum lease with CCN that was entered into in 2003 and runs until 2014. CCN defaulted on the lease and Maritime has obtained a \$900,000 monetary judgment against CCN which it has attempted, unsuccessfully thus far, to collect. As reported in previous interrogatory responses, CCN constructed at least 14 fill-in sites within the authorized footprint of the leased stations and loaded them with customers. CCN has apparently abandoned operations under this lease, but Maritime does not know precisely when. Maritime has never

² This information is intended as a factual report and is not a concession of any legal point. It is Maritime’s position that, for purposes of Section 1.955(a)(3) of the FCC Rules, even if it is determined that “service” has been “discontinued” on these facilities, such discontinuance is temporary and not permanent.

cancelled the lease. CCN remains in business as a Motorola two way radio sales and service shop and a Sprint Nextel dealer. Maritime hopes to either collect on its judgment and resume services itself, or enforce the lease with CCN; either scenario is possible when MCLM or its successor-in-interest emerges from Chapter 11. As discussed in the preceding response, Call Signs KAE889 Locations 3, 4, 13, 20, 30, 34 & 48, WHG750, and WRV374 Locations 15 & 25 are subject to currently effective spectrum leases pursuant to the Commission's *Secondary Markets* policy³ Finally, as also stated in the preceding response, Call Sign WRV374 Location 31 (Baltimore MD) will be voluntarily deleted from the authorization and is therefore no longer relevant under Issue G.

7. As to the remaining facilities listed in the Bureau's Category A table, Maritime ceased providing AMTS service to end user subscribers as of December 31, 2007. The reason for this was a steady decline in demand for traditional maritime and land mobile communications services via AMTS, and a lack of service revenues, coupled with Maritime's extensive efforts to re-purpose the spectrum for higher and better uses. In particular, Maritime engaged consultants between 2006 and 2008 who researched the feasibility of deploying AMTS spectrum for many new purposes, including: AIS-B Coast Guard vessel tracking, emergency alert nationwide systems, XM Satellite radio's terrestrial wireless transmissions; container tracking in ports and along waterways, Smart Grid, Positive Train Control, and interoperable communications for public safety in conjunction with Maritime's Critical RF subsidiary's technology. Maritime has

³ This information is intended as a factual report and is not a concession of any legal point. It is Maritime's position that, for purposes of Section 1.955(a)(3) of the FCC Rules, a facility subject to spectrum lease pursuant to the Commission's *Secondary Markets* policy—*Principles for Promoting the Efficient Use of Spectrum by Encouraging the Development of Secondary Markets*, WT Docket No. 00-230, *Policy Statement*, 15 FCC Rcd 24178 (2000); *Report and Order and Further Notice of Proposed Rulemaking*, 18 FCC Rcd 20604 (2003); *Second Report and Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking*, 19 FCC Rcd 17503 (2004)—is considered to be in "service." See also footnotes 1 & 2, above.

continued efforts it had already begun to repurpose the spectrum to other permitted uses with greater promise of market demand and operational success; this effort is evidenced by the pending sales before the FCC for Smart Grid by customers such as Duquesne Power and Light, data control of pipelines by oil and gas users like EnCana Oil and Gas (USA), Inc., and Enbridge Energy Company, Inc., and Positive Train Control by users such as Southern California Regional Rail Authority. Precisely because it did not intend to permanently abandon these authorizations, Maritime left the legacy, analog equipment in place and, to the extent it was financially able, maintained its site lease and utility payments. Maritime does not now and never has intended to permanently cease operations of, or otherwise abandon, these stations.⁴

A.3. As to each Call Sign and Location [listed under Category A in the Bureau's request], has it been operating and offering any type of service since Maritime's acquisition in 2005? If not, why not?

8. At the time of Maritimes acquisition of the incumbent licenses (December 31, 2005), Call Sign WRV374 Locations 15 and 25 was under lease to Pinnacle Wireless and Call Sign WRV374 Locations 12 & 39 was under lease to CCN. Further details regarding operation of those facilities are discussed in the preceding responses. As also stated in the preceding responses, Call Sign WRV374 Location 31 (Baltimore MD) will be voluntarily deleted from the authorization and is therefore no longer relevant under Issue G.

9. As to the remaining facilities listed in the Bureau's Category A table, at the time of Maritime's acquisition of the incumbent licenses, these stations were operating as part of systems providing maritime and/or land mobile communications services to AMTS subscribers. As previously explained, over the course of the next two years, demand for these services steadily declined as cellular systems became ubiquitous and inexpensive, and as commercial satellite systems such as Globalstar took hold in the long-haul transportation markets for

⁴ See footnote 2, above.

towboats and barges. As of December 31, 2007, Maritime was no longer providing service to AMTS customers via these stations. Maritime does not now and never has intended to permanently cease operations of or otherwise abandon these stations.⁵

CATEGORY B

The Bureau lists as “Category B” Call Signs WHG711 and WHG747 as “Stations For Which Maritime Has Not Provided any Reasons for Service Interruption or Confirmed Earlier Operation.” The Bureau’s specific requests are set forth below in italics, following by Maritime’s further supplemental and/or clarifying responses.

B.1. Was this facility operating and offering any type of service between Maritime’s acquisition in 2005 and the Service Suspension Date? If so, what were the dates of operation? If not, why not?

10. The response in paragraph number 9, above, also applies to Call Signs WHG711 and WHG747.

B.2. Why did operations cease by the Service Suspension Date?

11. See the response in paragraph 9, above. The “Service Suspension Dates” actually refer to dates on which these facilities became “non-operational” (see paragraphs 4 and 5, above). Call Sign WHG711 became non-operational in 2008 due to cancellation of the site lease. Call Sign WHG747 became non-operational in May 2010 due to cancellation of electric utilities.

B.3. Have operations resumed? If not, why not?

12. Service has not resumed due to several factors, including insufficient market demand for traditional analog AMTS service, financial difficulties of Maritime due largely to the huge costs of successfully defending itself in California, New Jersey, at the FCC, and elsewhere against the endless litigation brought by Mr. Havens, and the eventual bankruptcy of Maritime.

⁵ See footnote 2, above.

Maritime does not now and never has intended to permanently cease operations of or otherwise abandon these stations.⁶

CATEGORY C

The Bureau lists as “Category C” what it characterizes as “Stations for Which Maritime Has Not Confirmed Earlier Operation.” The Bureau’s specific requests are set forth below in italics, following by Maritime’s further supplemental and/or clarifying responses.

C.1. Was this facility operating and offering any type of service between Maritime’s acquisition in 2005 and the Service Suspension Date? If so, what were the dates of operation? If not, why not?

13. The response in paragraph numbers 9 and 10, above, also applies to the facilities listed in the Bureau’s Category C table, except that Call Signs WGH707 and WHG754 were “non-operational” (see paragraphs 4 and 5, above) at the time of Maritime’s acquisition. As reported in previous interrogatory responses, Call Sign WHG707 became non-operational in 2005. It was also previously reported that Call Sign WHG754 became non-operational in 2011, but this appears to be a clerical error. The tower along the coast of Texas was apparently lost in a hurricane around the year 2000, prior to the acquisition by Maritime.

C.2. Have operations resumed? If not, why not?

14. Service has not resumed due to several factors, including insufficient market demand for AMTS service, financial difficulties of Maritime, and the eventual bankruptcy of Maritime. Maritime does not now and never has intended to permanently cease operations of or otherwise abandon these stations.⁷

⁶ See footnote 2, above.

⁷ See footnote 2, above.

SITE MANAGER CONTACTS

The Order also directed Maritime to “include identification of known point of contact persons” for the Maritime site locations. Maritime will produce this information in a separate filing, subject to confidentiality under the *Protective Order* (FCC 11M-21; rel. July 20, 2011) in this proceeding.

VERIFICATION

Mr. Robert T. Smith, Maritime’s staff engineer, in the principal person with knowledge of the matters discussed herein, and undersigned counsel has consulted with him in the preparation of this document. Mr. Smith is currently out of the office and on the road and will therefore have limited opportunity to carefully review the final version of this document. As soon as Mr. Smith returns to Clarksville, Indiana (location of his Maritime office) and reviews the final version of this document, Maritime will submit his sworn verification together with any minor corrections that may be necessary.

Respectfully Submitted,



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Dated: August 9, 2012

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of August, 2012, I caused copies of the foregoing pleading to be served, by U.S. Postal Service, First Class postage prepaid, on the following:

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A handwritten signature in black ink, reading "Robert J. Keller". The signature is written in a cursive style with a checkmark above the first letter 'R'.

Robert J. Keller
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